IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 5965 of 2007(I)

PETITIONER:

E.T.VARGHESE,
MOTOR VEHICLES INSPECTOR, SUB REGIONAL TRANSPORT OFFICE, KOTHAMANGALAM.

BY ADV. SRI.ELVIN PETER P.J.
SRI.C.X.ANTONY BENEDICT

RESPONDENTS:

THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
TRANSPORT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY BY GOVT.PLEADER SRI.BEJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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W.P(C) No. 5965 of 2007

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Dated this the 8th day of March, 2007.

J U D G M E N T

Petitioner is working as an Assistant Motor Vehicle Inspector in the Transport Department. According to him his actual date of birth is March 16, 1955. However, in the school records and SSLC book, the date was incorrectly entered as June 5, 1953. On a motion made by the petitioner, the Commissioner for Government Examinations accorded sanction to correct his date of birth in the school records and S.S.L.Certificate as March 16, 1995 by invoking the power under Rule 3 Chapter VI KER. Ext.P1 is the true copy of the order issued by the Commissioner in this regard on September 6, 2005.

2. Thereafter the petitioner approached the Government for incorporation of the corrected date of birth in his service records. The said request was turned down by the Government as could be seen from Ext.P4 order. The prayer in the Writ Petition is to issue a writ of certiorari to quash Ext.P4 order. There is a further prayer to quash the relevant clause in Ext.P5 order issued by the Government, which prescribes a period of 5 years from the date of entry in service , to apply for correction of date of birth in the service records.

3. It is not in dispute that petitioner had entered service in May 1990. It is true that the Commissioner for Government Examinations had granted sanction to correct his date of birth in the

school records by order dated September 6, 2005 (Ext.P1) after condoning the delay. It is beyond controversy that the correction of date of birth in the school records will not entail alteration of date of birth in the service records, as a matter of course. Alteration of date of birth in service records is governed by Ext.P5 order issued by the Government on December 30, 1991, which, inter alia stipulates that an application for alteration has to be submitted by the employee within 5 years of his entry in service. In fact the above clause was incorporated in the year 1991 in tune with the system followed by the Government of India . In Ext.P5 the Government noticed that there was a growing tendency on the part of Government employees to get their date of birth corrected when they were about to retire from service. The date of birth in the service book is entered on the basis of authenticated documents like SSLC book, birth certificate, school admission register extract etc. Earlier a Government employee could apply for correction of date of birth entered in his service book up to the period beyond 2 years preceding his retirement, "reckoned with reference to the date of birth as originally entered in the service book". However the Government took the view that the employee should be granted an opportunity during the initial periods of one's service to make correction in bona fide cases. It was therefore that the Government had issued Ext.P5 in which the period of limitation of 5 years referred to above was prescribed.

4. While considering the request made by the petitioner for correction of his date of birth, it was noticed by the Government that his application was highly belated. As mentioned earlier, petitioner had

entered service in the year 1990. He had submitted the application for correction only in October 2005. Going by the date of birth furnished by the petitioner in his service records, he is due to retire in June 2008. Obviously the petitioner had moved the Government about 3 years prior to his retirement. A perusal of the pleadings in the writ petition and also Ext.P3 application submitted before the Government shows that petitioner has failed to state any cogent reasons for the inordinate delay in approaching the Government to alter his date of birth in the service records. It has been repeatedly held by their Lordships of the Supreme Court that such belated attempts on the part of the Government employees to get their date of birth altered on the eve of their retirement should not be encouraged. In the absence of any satisfactory reasons, the petitioner cannot have the luxury of alteration of his date of birth.

5. Though the petitioner has raised a contention that the prescription of 5 years period for submitting application to correct the date of birth in service records is illegal and arbitrary, I do not find any justifiable ground or reason to accept the above contention. The above clause has stood the test of time for the last more than 16 years. The above clause, in my view, is eminently reasonable and valid. The Government had incorporated the above clause with a view to allow the employees to correct the date of birth in the service records which might have arisen due to a bonafide mistake. The period of 5 years is by any standards, totally reasonable and justifiable. In that view of the mater, I do not find any reason to allow the prayer made by the petitioner to quash the above clause in Ext.P5.

6. Having regard to the entire facts and circumstances I do not find any reason to interfere with Ext.P4 order. The view taken by the Government in the above order is totally justifiable. There is no merit in any of the contentions raised by the petitioner. Therefore the writ petition fails. It is accordingly dismissed.

A.K. Basheer

Judge.

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